The Honorable Richard Jones

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANDRES A. MUNT-LOVELL NICHOLAS P. MUNT-LOVELL Plaintiff, v. THE INTERNATIONAL CAT ASSOCIATION ("TICA"), a Texas nonprofit corporation; VICKI JO HARRISON, individually and in her official capacity as TICA President; FRANCES CARDONA, in her official capacity as TICA Business Manager; BRENDA RUSSO, individually and in her official capacity as TICA Mid-Atlantic Regional Director; and LAURIE YATES-SCHIFF, individually and her official capacity as TICA Southwest Regional Director; Defendants.	Case No: 2:25-cv-01665-RAJ DEFENDANTS' MOTION TO DISMISS THE AMENDED COMPLAINT NOTE ON MOTION CALENDAR: FEBRUARY 19, 2026

I. RELIEF REQUESTED

Defendants request that the Court dismiss Plaintiffs' First Amended Complaint for failure to state a claim upon which relief may be granted under Fed. R. Civ. P. 12(b)(6) with prejudice, and without leave to amend. The Complaint also runs afoul of Fed. R. Civ. P. 8(a).

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Plaintiffs assert they were selected to host defendant The International Cat Association's (TICA) Annual Show and Banquet in 2023. Shortly before the show, they allege, TICA officials (defendants Harrison, Russo, and Yates-Schiff) stepped in to manage the show. TICA then determined Plaintiffs required oversight in their management of that show. That is the basis of Plaintiffs' **14** causes of action: (1) defamation; (2) false light; (3) violation of the Consumer Protection Act; (4) conversion; (5) unjust enrichment (6) breach of fiduciary duty – common law and the Washington Nonprofit Corporations Act; (7) wrongful expulsion under the Washington Nonprofit Corporations Act; (8) breach of good faith; (9) intentional infliction of emotional distress; (10) negligent supervision and "ratification;" (11) civil conspiracy; (12) abuse of process; (13) tortious interference; and (14) assorted violations of the Washington Nonprofit Corporations Act.

II. STATEMENT OF FACTS

A. Plaintiffs' Factual Allegations in the Amended Complaint.

Defendant The International Cat Association ("TICA") is a nonprofit organization which is one of the largest sanctioning bodies for cat shows in the world.[1] Plaintiffs allege that they were members of TICA and co-founders of the SeaCats, a Charter of TICA. *See* First Amended Complaint, Dkt. #20 (hereinafter "Am. Compl.") at ¶ 23.

Plaintiffs assert that, in 2022, TICA selected their company SeaCats to host TICA's Annual Awards Show in 2023. Am. Compl. at ¶ 23. The annual awards show is one of TICA's most prestigious events. *Id.* Plaintiffs had previously hosted events before, and they allege that their events routinely operated at a loss. *Id*. at ¶ 25.

[1] https://tica.org/about-tica/; *see also JFXD TRX ACQ LLC v. East River JW Inc*., 2024 U.S. Dist. LEXIS 132605, *2-3 (W.D. Wn. July 26, 2024) (courts may take judicial notice of "business information on [a] website" if it is "not subject to reasonable dispute").

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Plaintiffs allege that a month before the show, they notified TICA they were concerned about event sales and their ability to meet the hotel's required attrition rate. *Id*. at ¶ 36. Shortly thereafter, Plaintiff Nicholas Munt-Lovell was hospitalized. *Id.* at ¶ 38. TICA directors stepped in to help to make the show a success. *Id.* at ¶¶ 38, 41. TICA claimed that, because it had to step in to assist, Plaintiffs owed TICA funds. *Id.* at ¶ 59. Plaintiffs deny funds are owed and Defendants made allegations they had drug problems *Id*. at ¶¶ 4, 39, 50, 106, 107, 154, 186. Plaintiffs assert many other grievances in the Amended Complaint. However, many allegations relate to individuals who are not named defendants and are not officers or directors of TICA: Danielle Petersen, Lucy Robinson, and Debbie Prince. *Id*. at ¶¶ 17(a)(i), 39, 44, 51, 53, 60, 64, 71, 72, 91, 107, 108, 142, 154, 157, 164(f), 187, 191, 202.

B. The Amended Complaint's Omissions.

The Amended Complaint fails to allege any of the following:

- Particularly as to what specific false statements were actually made, when, where, and to whom;
- Particularly as to what specific deceptive acts have the ability to deceive the public;
- What property Plaintiffs have been deprived of;
- What benefits Plaintiffs conferred upon the Defendants;
- The existence of an improper purpose by Defendants;
- The existence of a fiduciary duty owed by Defendants to Plaintiffs;
- The existence of an agreement between Defendants to act for unlawful purposes;
- Plausible facts to show that a lawsuit against Plaintiffs was commenced merely to harm and harass Plaintiffs;
- The existence of specific business expectancies that Defendants interfered with and the resulting harm to Plaintiffs;

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- The specifics of harm supposedly suffered as a result of the alleged acts; and
- Allegations that support an exception to the general rule that people and businesses have no duty to aid or protect others from third-party harm.

III. ISSUES PRESENTED

Should the Court dismiss the First Amended Complaint because Plaintiffs have failed to plead these claims?

IV. EVIDENCE RELIED UPON

This motion relies upon Plaintiffs' Amended Complaint.

V. AUTHORITY

A. Legal standard under Rule 12(b)(6).

Pro se litigants must follow the same rules of procedure that govern other litigants, including the Federal Rules of Civil Procedure and the local rules of the Western District of Washington. *Briones v. Riviera Hotel & Casino*, 116 F.3d 379, 381 (9th Cir. 1997). Although *pro se* pleadings are held to a "less stringent standard than formal pleadings drafted by lawyers," they must still meet the requirements of the rules. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). A trial court may not supply essential elements. *Ivey v. Board of Regents*, 673 F.2d 266, 268 (9th Cir. 1982). Rule 12(b)(6) provides that a trial court may dismiss a claim for relief on the basis that the plaintiff has "failed to state a claim upon which relief can be granted."

"To survive a motion to dismiss, [a complaint] must contain sufficient factual matter, accepted as true, to 'state a claim for relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation omitted). Although Fed. R. Civ. P. 8(a)(2)'s pleading standard "does not require 'detailed factual allegations,' ... it demands more than an unadorned, the defendant-unlawfully-harmed-me accusation." *Id.* (citation omitted); *see also Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) ("plaintiff's obligation to provide the grounds of his entitlement to relief

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requires more than labels and conclusions and a formulaic recitation of the elements of a cause of action will not do") (brackets and quotation marks omitted).

Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice to withstand a 12(b)(6) motion to dismiss because "the Federal Rules do not require courts to credit a complaint's conclusory statements without reference to its factual context." *Iqbal*, 556 U.S. at 678, 686. Although, in ruling on a Rule 12(b)(6) motion to dismiss, a trial court must "accept as true all factual allegations," it need not accept the "legal conclusions" drawn from the facts. *Russell v. Samec*, 2020 WL 5733446, at *2 (W.D. Wash. Sept. 2, 2020), *report and recommendation adopted*, 2020 WL 5701884 (W.D. Wash. Sept. 24, 2020) (citing *Iqbal*, 556 U.S. at 678); *Twombly*, 550 U.S. at 555 ("courts are not bound to accept as true a legal conclusion couched as a factual allegation")).

B. Legal standard under Rule 8.

A complaint must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). This serves the dual function of ensuring a pleading "contain[s] underlying facts to give fair notice and to enable the opposing party to defend itself effectively" and "plausibly suggest[s] an entitlement to relief." *Silver v. Dystrup-Chiang*, 2021 U.S. Dist. LEXIS 177738, at *2 (W.D. Wash. Sep. 17, 2021) (quotation omitted). "A complaint which fails to comply with rules 8(a) and 8(e) may be dismissed with prejudice pursuant to rule 41(b)." *Nevijel v. N. Coast Life Ins. Co.*, 651 F.2d 671, 673 (9th Cir. 1981) (collecting cases). "The propriety for dismissal for failure to comply with Rule 8 does not depend on whether the complaint is wholly without merit," rather, the rule "applies to good claims as well as bad, and is a basis for dismissal independent of 12(b)(6)." *Henry v. Renne*, 84 F.3d 1172, 1179 (9th Cir. 1996).

Rule 8 applies to *pro se* litigants. *Marcos-Chavela v. Graham*, 2023 U.S. Dist. LEXIS 63461, at *2-3 (W.D. Wash. Apr. 11, 2023) (dismissing *pro se* plaintiff's "largely unintelligible"

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complaint); *Chong Yu Zhang v. Boeing*, 2020 U.S. Dist. LEXIS 74579, at *2-3 (W.D. Wash. Apr. 28, 2020) ("Even under a liberal construction of these claims for a *pro se* litigant, the Court finds that Plaintiff's first amended complaint violates Rule 8."); *see also Shankar v. Microsoft Corp.*, 2024 U.S. Dist. LEXIS 195003, at *8-9 (W.D. Wash. Oct. 25, 2024) (dismissing *pro se* plaintiff's complaint whose contents "leave uncertain the nature of his claims").

Here, Plaintiffs' Amended Complaint runs afoul of Rule 8 in several ways. It names five defendants and spans 47 pages in length for a total of 229 paragraphs. It includes 63 repetitive paragraphs of factual allegations, with additional factual allegations listed under each cause of action. Plaintiffs allege a total of 14 claims, co-mingled together. Some claims do not exist and others are incomplete. Many of the allegations under each claim do not pertain to the correct claim. The allegations are vague and meandering. Neither the Court nor the Defendants should be compelled to cull through pages of rambling narrative, argument, and needless digression to discover the factual basis for Plaintiffs' claims. The Amended Complaint should be dismissed for failure to conform to Fed. R. Civ. Pro. 8(a)(2).

C. Plaintiffs cannot assert claims against the TICA Directors.

Plaintiffs bring claims against TICA's Directors, Harrison, Cardona, and Schiff, in their official capacities. The Nonprofit Corporations Act precludes such claims. RCW 23.03A.540 limits when boards of directors of nonprofits are liable to members:

> (4) A director of a nonprofit corporation is not liable to any member of the nonprofit corporation for any action taken, or any failure to take action, as a director, except as provided in subsection (5) of this section.
>
> (5) A director is liable to a member of the corporation only for:
>
> (a) A knowing infliction of harm upon the member; or
>
> (b) An intentional violation of criminal law or this chapter that results in harm or loss to the member.

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Plaintiffs commenced this lawsuit against TICA, a nonprofit organization, and three of its directors, defendants Harrison, Cardona, and Yates-Schiff. Plaintiffs bring these claims against the TICA Directors in their "individual capacit[ies] and official capacit[ies] where applicable." Am. Compl., ¶¶ 14, 16, 17. Plaintiffs do not indicate which claims refer to the defendants as individuals versus their capacities as directors, nor do they allege defendants acted outside their scope as directors. Plaintiffs' allegations relate solely to TICA's 2023 Annual Show, in which defendants Harrison, Cardona, Russo, and Yates-Schiff were acting as TICA Directors. Plaintiffs do not allege that these defendants acted with a knowing infliction of harm upon them or intentional violation of criminal law that would make each director independently liable. To the extent Plaintiffs plead a claim for Intentional Infliction of Emotional Harm, Plaintiffs provide no non-conclusory, factual allegations regarding defendants' intent. Plaintiffs' claims against TICA Directors Harrison, Cardona, and Yates-Schiff should be dismissed with prejudice.

D. Plaintiffs have failed to assert viable defamation and false light claims.

Plaintiffs bring claims for defamation, defamation per se, and false light. Am. Compl., ¶¶ 98-121. Defamation and false light claims are distinct: a false light claim compensates for mental suffering, while a defamation claim compensates for reputational harm. *Life Designs Ranch, Inc. v. Sommer*, 191 Wn. App. 320, 339 (2015) (citing *Eastwood v. Cascade Broad. Co*., 106 Wn.2d 466 (1986)). The elements of a defamation claim are: (a) "a false and defamatory statement concerning another"; (b) "an unprivileged communication to a third party"; (c) "fault amounting at least to negligence on the publisher's part"; and (d) "either actionability of the statement or special harm caused by the publication." *Emeson v. Dep't of Corr.*, 194 Wn. App. 617, 639-40 (2016).

In the Amended Complaint, Plaintiffs allege Defendants spread "false statements" about their substance abuse. Am.Compl., ¶¶106, 112, 119. Plaintiffs, however, cannot establish that these

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statements were false because they detail Plaintiff Nicholas Munt-Lovell's substance abuse in other court filings under the penalty of perjury: "[Nicholas Munt-Lovell] appears to be losing more and more of his cognitive capacities to drug use"; "[I] am afraid that [Nicholas Munt-Lovell's] substance abuse mixed with his instability will lead to damage of the property or myself." *Munt-Lovell v. Munt-Lovell,* Case No. 24-2-24817-0 KNT, Petition for Protective Order (Wash. Super. Ct., King Cnty, filed October 25, 2024); *Munt-Lovell*, Case No. 20-2-07561-2 KNT, Petition of Protective Order (Wash. Super. Ct., King Cnty, filed April 7, 2020). [2]

Setting aside the glaring issue that Plaintiffs inaccurately allege true statements as false and defamatory, the defamation claim does not meet the bare requirements set forth in *Twombly/Iqbal*. Nowhere in the Amended Complaint have Plaintiffs plead with particularly which Plaintiff the false statements were made about, when the false statements were made (other than vaguely alleging "In August 2023…"), where such false statements were made, and to whom. *See Snook v. Whatcom Humane Society,* 2018 U.S. Dist. LEXIS 133821 at *3 (W.D. Wash. Aug. 8, 2018) (finding a plaintiff did not state a claim where the "defamation cause of action [pled] only a formulaic recitation of the elements in a conclusory manner"); *Campbell v. Dell Techs., Inc.*, No. C24-711-RSM, 2024 U.S. Dist. LEXIS 144010 at * 4-5 (W.D. Wash. Aug. 13, 2024) ("Plaintiff provides no information regarding what was possibly said or anything showing the provable falseness of the alleged statements other than she believed their statements tarnished her reputation[n]."). Plaintiffs assert vague claims that defendant Russo and Yates-Schiff made repeated accusations of Plaintiffs' drug use, show mismanagement, and impropriety without detailing the exact statements, when, where, or to whom such alleged statements were made. Plaintiffs also claim "executive session discussions were leaked," Board meeting minutes were

[2] Courts may take judicial notice of court filings and other matters of public record. *See Burbank-Glendale-Pasadena Airport Auth. v. City of Burbank*, 136 F.3d 1360, 1364 (9th Cir. 1998).

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published, and some defendants made Facebook posts. Am. Compl., ¶¶ 184-193. Again, there are no details as to what the specific statements were, the details about the Board meeting minutes or how they were defamatory, when, where, or how these statements were allegedly made or how they were published. Such cursory allegations, devoid of any specificity, do not satisfy the pleading standards. *Twombly*, 550 U.S. at 555; *Iqbal*, 556 U.S. at 678.

Plaintiffs attribute defamation to "non-defendants Petersen and Robinson." Am. Compl., ¶¶ 107-108. As Petersen and Robinson are not defendants nor are they on TICA's Board of Directors, their statements and actions are irrelevant to this matter and Plaintiffs' claims for defamation.

Further, Plaintiffs have not plead that there was an unprivileged communication. To the extent that Plaintiffs plead that false statements were published to "officers, directors, and members, including in the TICA Trend" and "outside auditors" this does not satisfy the element of unprivileged communication to a third party. A privileged communication occurs when an otherwise defamatory statement is shared with a third person who has a "common interest" in the subject and is reasonably entitled to know the information. *Pate v. Tyee Motor Inn, Inc.*, 77 Wn.2d 819, 820-21 (1970). TICA Members would reasonably be entitled to know about any potential audits into a charter and an auditor would be privy to its financial information.

Plaintiffs also do not allege that Defendants acted with, at the very least, negligence.

Finally, Plaintiffs have not adequately plead harm. Instead, they assert the conclusion that there has been "reputational harm," without any further elaboration. Plaintiffs have not pleaded plausible defamation claim that survive a motion to dismiss.

Plaintiffs also allege false light. This claim arises when: (1) someone publicizes a matter that places a plaintiff in a false light, (2) "the false light would be highly offensive to a reasonable person," and (3) "the actor knew of or recklessly disregarded the falsity of the publication and the

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false light in which the other would be placed." *Corey v. Pierce Cnty*., 154 Wn. App. 752, 762 (2010) (citing *Eastwood v. Cascade Broad. Co.*, 106 Wn.2d 466, 471 (1986)). Plaintiffs fail to plead that these actions would be highly offensive to a reasonable person and that Defendants knew of or recklessly disregarded the falsity of the publication. Plaintiffs' claims for false light should be dismissed.

E. Plaintiffs have failed to plead proper Consumer Protection Act claims.

Plaintiffs assert claims for Consumer Protection Act violations in various places in their Amended Complaint. Am. Compl., 26:3-34; 30:9-10, 32:13-15, ¶¶ 100, 117, 119-120, 137, 146. Despite repeatedly using the phrase "RCW 19.86," Plaintiffs have failed to plead facts that would establish an unfair or deceptive act or practice in trade or commerce under the Consumer Protection Act ("CPA"). The CPA prohibits "unfair or deceptive acts or practices in the conduct of any trade or commerce." To maintain a claim, Plaintiffs must establish: (1) an unfair or deceptive act or practice, (2) occurring in trade or commerce, (3) affecting the public interest, (4) injury to the plaintiff's business or property, and (5) causation. RCW 19.86.090.

The definition of an "unfair" or a "deceptive" act or practice differ, but both require that the alleging party "establish that the unfair or deceptive act or practice had the capacity to deceive a substantial portion of the public." *Young v. Toyota Motor Sales, U.S.A.,* 196 Wn.2d 310, 317 (2020) (citing *Panag v. Farmers Ins. Co. of Wn.*, 166 Wn.2d 27, 47 (2009)). An act or practice that "had no deceptive capacity affecting the public in general" because it was "not directed at the public" is neither unfair nor deceptive under the CPA. *Goodyear Tire & Rubber Co. v. Whiteman Tire*, 86 Wn. App. 732, 744 (1997). "[T]he concern of Washington courts has been to rule out those deceptive acts and practices that are unique to the relationship between plaintiff and defendant." *Behnke v. Ahrens*, 172 Wn. App. 281, 292-93 (2012).

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Plaintiffs fail to plead any allegations that identify any conduct that constitutes an unfair or deceptive practice within the meaning of the statute. They allege that their exclusion from TICA "affects consumers, exhibitors, and vendors within the competitive cat fancy market." Am. Compl., ¶ 100. This personal and conclusory allegation vaguely insinuates Plaintiffs were impacted but does not plausibly explain how Defendants' alleged conduct can potentially harm anyone other than Plaintiffs. Plaintiffs have failed to state a claim for violations of the Consumer Protection Act.

F. Plaintiffs have failed to plead a viable conversion claim.

Plaintiffs allege conversion but fail to plead facts sufficient to state such a claim. Am. Compl., ¶¶ 122-135. Conversion is "(1) willful interference with chattel belonging to the plaintiff, (2) by either taking or unlawful retention, and (3) thereby depriving the owner of possession." *Burton v. City of Spokane*, 16 Wn. App. 2d 769, 773 (2021). While wrongful intent is not an element of conversion, and good faith is not a defense, a plaintiff must still show "some affirmative wrongful act by the defendant, either an actual conversion by the defendant or a demand for, and a refusal of, the property where this is relied on to establish the conversion." *Schneider Nat'l Carriers, Inc. v. Fireworks Nw*., LLC, No. C15-0747, 2017 U.S. Dist. LEXIS 62033, 2017 WL 1438035, at *2 (W.D. Wash. Apr. 24, 2017) (quoting 90 C.J.S. *Trover and Conversion* § 95 (2017)).

Plaintiffs have not alleged plausible factual allegations to support a conversion claim. They allege that defendant Russo withdrew $800 from SeaCats' PayPal (SeaCats is **not** a party to this action); defendant Cardona interfered with vendor and vendor communications for TICA's 2023 Annual Show; defendant Yates-Schiff issued Plaintiffs an invoice for services rendered; Plaintiffs believe a public statement was issued erroneously; and that a letter regarding debt owed to TICA

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was fabricated. Am. Compl., ¶¶ 125-132. Nowhere in this laundry list of grievances do Plaintiffs allege that any defendant took their property or were deprived of their property.

Further, Plaintiffs' claim that Russo "stole" $800 from SeaCats' PayPal account is nonsensical because Plaintiffs admit they provided Russo with Plaintiffs' PayPal login information – i.e., consent. Am. Compl., ¶¶ 106; 126. Most importantly, SeaCats is not a party to this action. Plaintiffs have not pled a viable conversion claim.

G. Plaintiffs failed to plead claims for unjust enrichment.

Plaintiffs assert claims for unjust enrichment with only conclusory allegations. Am. Compl., ¶¶ 122-135 To prove a claim for unjust enrichment, Plaintiffs must prove that they (1) conferred a benefit upon the defendant; (2) the defendant had knowledge or appreciation of the benefit; and (3) the defendant's acceptance or retention of the benefit without payment of its value is inequitable under the circumstances. *Young v. Young,* 164 Wn.2d 477, 484 (2008) (quoting *Bailie Commc'ns, Ltd. v. Trend Bus. Sys., Inc.*, 61 Wn.App. 151, 159-60, *rev. den.*, 117 Wn.2d 1029 (1991)). Unjust enrichment is the method of recovery for the value of the benefit retained absent a contractual relationship because notions of fairness and justice require it.

Plaintiffs alleged that Defendants were unjustly enriched by "retaining the benefits of their "labor and expenditures." Am. Compl., ¶ 133. It is unclear what this means but it is a conclusory allegation. Plaintiffs repeat the same factual allegations for unjust enrichment as they do for conversion. They do not plead with specificity any benefit has conferred upon Defendants. Plaintiffs have failed to plead a viable unjust enrichment claim.

H. Plaintiffs have failed to plead claim for tortious interference.

Plaintiffs' tortious interference claims amount to nothing more than speculation. Am. Compl., ¶¶ 182-195. To state a viable tortious interference claim, Plaintiffs must allege facts showing: "(1) the existence of a valid contractual relationship or business expectancy; (2) that

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defendants had knowledge of that relationship; (3) an intentional interference inducing or causing a breach or termination of the relationship or expectancy; (4) that defendants interfered for an improper purpose or used improper means; and (5) resultant damage." *Leingang v. Pierce County Med. Bureau, Inc.*, 131 Wn.2d 133, 157 (1997). A plaintiff must establish all the elements to support a claim of tortious interference. *Boyce v. West*, 71 Wn. App. 657, 665 (1993) ("[A] complete failure of proof concerning an element necessarily renders all other facts immaterial.").

Here, Plaintiffs first fail to plead existence of a valid contractual relationship or business expectancy. They allege a "long-standing and legitimate business expectancy in the cat-fancy community." Am. Compl., ¶ 184. Plaintiffs fail to identify any customers or specific business opportunities in the cat-fancy community that were purportedly interfered with by Defendants' conduct. Plaintiffs further allege they have lost the ability to participate in TICA-sanctioned shows, as well as clerking and show-management opportunities at TICA. Am. Compl., ¶ 184(a)-(b). In other words, Plaintiffs allege tortious interference within TICA. Yet, tortious interference cannot be based on a soured relationship between the parties. That is, a party cannot commit tortious interference with its own relationship. *Olympic Fish Prods., Inc. v. Lloyd*, 93 Wn.2d 596, 598 (1980).

Plaintiffs have failed to allege actual interference with prospective contractual or business relationship with a third party or "valid business expectancy includes any prospective contractual or business relationship that would be of pecuniary value." *Greensun Grp., LLC v. City of Bellevue*, 7 Wn. App. 2d 754, 768 (2019).

Second, Plaintiffs fail to properly plead intentional interference. Plaintiffs make conclusory allegations that Russo made "false statements to exhibitors, judges, and club directors" but fail to identify who were the specific exhibitors, judges, and club directors, when the alleged false statements were made, and what were the specific false statements. Am. Compl., ¶ 186.

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Additionally, Plaintiffs allege that when TICA and the individual defendants stepped in to help save TICA's Annual Show, it was tortious interference. *Id*. at ¶ 188. Providing assistance to prevent a failed show after being requested cannot meet the intentional inference standard.

Plaintiffs again cite the conduct of individuals (non-defendants Prince, Peterson, Robinson) over whom TICA and the individual defendant had no control over. Generally, individuals and businesses have no duty to aid or protect others from third-party harm. *Barlow v. State*, 2 Wn.3d 583, 589 (2024). Plaintiffs have failed to point to facts which would support an exception to that general rule and create a legal duty that TICA allegedly owed them.

Third, Plaintiffs assert conclusory allegations that Defendants' "improper purpose" was triggered by Plaintiffs "raising conflicts of interest, mismanagement, and procedural misconduct" but present no allegations of when, where, how, or to whom they alleged raised these concerns. Am. Compl., ¶ 192. Nowhere in the 47-page complaint do Plaintiffs provide factual allegations that they raised these alleged concerns with TICA or the individual defendants.

Finally, Plaintiffs fail to adequately plead damages. Plaintiffs provide generalizations such as "clubs stopped inviting Plaintiffs to manage shows, exhibitors avoided their cattery, kitten-buyers withdrew interest, and Plaintiffs breeding program collapsed." Am. Compl., ¶ 193. Plaintiffs fail to provide specifics which show they suffered actual damages, such as which clubs stopped inviting Plaintiffs to manage shows, which exhibitors avoided their cattery, the specifics of buyers who withdrew interest, and how and when Plaintiffs' breeding program collapsed. Plaintiffs do not allege there was a breach or termination of Plaintiffs' business expectancy.

Plaintiffs have filed a separate lawsuit alleging tortious interference against King County, Rebecca Smokoska, Dominique Sehpard, Christine Weber, Gene Mueller, Timothy Anderson, Chelsea Eykel, Samantha Moore, and Maria Widerkehr. Plaintiffs allege that the defendants tortiously interfered with Plaintiffs' business expectancy and that the actions of those defendants

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caused their cattery to collapse. *See Munt-Lovell, et ano. v. King Cty., et al*., 2:25-cv-01100-RAJ, ECF No. 8, pp. 58-60, (W.D. Wash. 2025), https://ecf.wawd.uscourts.gov/doc1/197111870101. These identical claims raise the question of whose actions (if any other than Plaintiffs) caused their cattery to collapse, whether they are vexatious litigants, and whether they improperly brought this matter in violation of Fed. R. Civ. Pro. 21.

I. Plaintiffs have failed to allege Washington Nonprofit Corporations Act claims.

Plaintiffs allege a laundry list of violations of the Washington Nonprofit Corporations Act, RCW 24.03A, including RCW 24.03A.155, .570, .614, .620, and .650. Am. Compl., ¶¶ 136-150; 196-216 Plaintiffs fail to identify the correct statutory basis for each claim, leaving Defendants to speculate as to which statute Plaintiffs intend to proceed under:

- RCW 24.03A.155 governs prohibited distributions for charitable purposes and dividends (Plaintiffs erroneously refer to this as "Conflicts of Interest") *See* Am. Compl., ¶¶ 196, 203-204;
- RCW 24.03A.050 governs subordination to canon law (Plaintiffs erroneously refer to this as "ultra vires act by officers and directors") *See* Am. Compl., ¶¶ 196, 205-208;
- RCW 24.03A.570 governs when an action may be taken without a meeting by unanimous written consent (Plaintiffs erroneously refer to this as "imposing duties of good faith, loyalty, and care") *See* Am. Compl., ¶¶ 196, 209-213.
- RCW 23.0A.615 & .620 governs conflicting interest transactions and business opportunities (Plaintiffs erroneously refer to this as "Improper Discipline & Lack of Fair Procedure") *See* Am. Compl., ¶¶ 196, 199-202.
- Breach of Good Faith and Fair Dealing, ¶¶ 136-150.

Plaintiffs appear to bring claims for the suspension and termination of their TICA membership – as they refer to it, "wrongful expulsion." Am. Compl., 32:13. All of these claims are time-barred. RCW 24.03A.375(5) provides that, "[a] proceeding challenging a termination or suspension for any reason must be commenced within one year after the effective date of the termination or suspension." *Parker v. Soc'y for Creative Anachronism*, No. 3:23-cv-05069-RJB,

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2024 U.S. Dist. LEXIS 42586 (W.D. Wash. Mar. 11, 2024) (holding a plaintiffs claim for termination of membership from the nonprofit was time-barred by RCW 24.03A.375). Here, Plaintiffs allege they were suspended from the organization in September 2023 and that SeaCats' charter was permanently revoked in May 2024. Am. Compl., ¶¶ 81-85; 136-147. Plaintiffs commenced this action on August 28, 2025. *See* Dkt. # 1-1. As more than one year has lapsed from suspension and termination, Plaintiffs claims for "wrongful expulsion" and all other actions related to the termination of their membership under the Nonprofit Corporations Act must be dismissed.

To the extent Plaintiffs make claims against TICA, the Nonprofit Corporation Act does not authorize them to make such claims against a nonprofit corporation and would be related to their membership termination (which is time-barred). These claims would be derivative actions, which Plaintiffs have not properly pled. As detailed above in Paragraph C, Plaintiffs have not alleged the prerequisite elements to create individual claims against defendants Harrison, Yates-Schiff, and Cardona under 24.03A.

J. Plaintiffs cannot bring a Common Law Breach of Fiduciary Duty claim against Defendants.

Plaintiffs allege a common law breach of fiduciary duty, despite there being no relationship between Plaintiffs and Defendants to bring such a claim. Am. Compl., ¶¶ 32:13-15. Plaintiffs have not pled that there was a fiduciary relationship. A fiduciary relationship may exist:

> either because of the nature of the relationship between the parties historically considered fiduciary in character; *e.g.*, trustee and beneficiary, principal and agent, partner and partner, husband and wife, physician and patient, attorney and client; or the confidential relationship between persons involved may exist in fact.

McCutcheon v. Brownfield, 2 Wash. App. 348, 356-57 (1970). [A]s a general rule, participants in a business transaction deal at arm's length and do not enter into a fiduciary relationship," *Annechino v. Worthy*, 162 Wash. App. 138, 143 (2011).

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Here, Plaintiffs do not plead in any way that there was a special relationship with Defendants. The common law fiduciary claim fails.

K. Plaintiffs fail to plead adequately civil conspiracy.

Plaintiffs plead civil conspiracy against all defendants. Am. Compl., ¶¶ 163-169. A civil conspiracy "exists if two or more persons combine to accomplish an unlawful purpose or combined to accomplish some purpose not in itself unlawful by unlawful means." *Corbit v. J.I. Case Co.*, 70 Wn. 2d 522, (1967). A plaintiff "must show that the alleged coconspirators entered into an [a]greement to accomplish the object of the conspiracy." *Id.* "Mere suspicion or commonality of interest is insufficient to prove a conspiracy." *Ferrie v. Woodford Research*, LLC, 2020 WL 3971343, slip op. at 7 (W.D. Wash. 2020) (citations omitted).

Here, Plaintiffs fail to plead (1) what was the unlawful purpose or (2) what were the unlawful means. They allege: "To defame and remove Plaintiffs from TICA and destroy their reputations." That is a mere legal conclusion (i.e., that defamation occurred). Am. Compl., ¶ 165.

Plaintiffs also allege that Defendants "coordinated actions to "pre-authoriz[e] litigation" against them before "any financial allegation existed." Am. Compl., ¶ 167. This is nonsensical. Plaintiffs allege that defendants Harrison, Cardona, and Yates-Schiff were acting in their capacity as Directors for TICA when they conspired to hurt Plaintiffs. TICA, however, cannot have conspired with itself.

Moreover, Plaintiffs plead that Defendants notified them of a financial debt owed to Defendants in October 2023, well before January 2024. Am. Compl., ¶ 74. In other words, the Amended Complaint makes a time-impossible conspiracy allegation.

Finally, Plaintiffs fail to plead that there was an agreement between the alleged co-conspirators. As such, Plaintiffs claim for civil conspiracy must be dismissed with prejudice.

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L. Plaintiffs have failed to plead a viable good faith and fair dealing claim.

Plaintiffs assert a claim for "common law good faith and fair dealing." Am. Compl., ¶ 136. No such claim exists: "Good faith and fair dealing" is an implied covenant of contract law. *Rekhter v. Dep't of Soc. & Health Servs.,* 180 Wn.2d 102, 112 (2014) (holding that "the duty of good faith and fair dealing arises when one party has discretionary authority to determine a future contract term."). Plaintiffs do not allege that there was a contract or implied contract between Plaintiffs and TICA or any other defendant. They cannot bring a claim for "breach of good faith and fair dealing."

M. Plaintiffs cannot assert an Abuse of Process claim.

Plaintiffs assert an abuse of process claim but fail to allege any plausible allegations of such a claim. Am. Compl., ¶ 170-181. Under Washington law, the elements of an abuse of process claim are "(1) the existence of an ulterior purpose—to accomplish an object not within the proper scope of the process; and (2) an act in the use of legal process not proper in the regular prosecution of the proceedings." *Sea-Pac Co. v. United Food & Com. Workers Loc. Union 44*, 103 Wn.2d 800, 806 (1985) (quoting *Fite v. Lee*, 11 Wn. App. 21, 27 (1974)). "[A]buse of process claims are exceptionally rare" and are generally limited to "unlawful, quid pro quo situations." *Maytown Sand & Gravel, LLC v. Thurston Cnty.*, 191 Wn.2d 392, 440 (2018) (en banc), *as amended* (Oct. 1, 2018), *and abrogated on other grounds by Yim v. City of Seattle*, 194 Wn.2d 682 (2019). "[T]he crucial inquiry is whether the judicial system's process, made available to insure the presence of the defendant or his property in court, has been misused to achieve another, inappropriate end." *Gem Trading Co. v. Cudahy Corp*., 92 Wn.2d 956 n.2 (1979). "[T]he mere institution of a legal proceeding even with a malicious motive does not constitute an abuse of process"; "[t]hus, there must be an act after filing suit using legal process empowered by that suit to accomplish an end not within the purview of the suit." *Sea-Pac*, 103 Wn.2d at 220-21 (citation modified).

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> Some definite act or . . . objective not legitimate in the use of the process, is required; and there is no liability where the defendant has done nothing more than carry out the process to its authorized conclusion, even though with bad intentions. The improper purpose usually takes the form of coercion to obtain a collateral advantage, not properly involved in the proceeding itself, such as the surrender of property or the payment of money, by the use of the process as a threat or a club.

Batten v. Abrams, 28 Wn. App. 737, 746 (1981). The type of "improper act" that might give rise to an abuse of process claim is one that is "a form of extortion"—using the process (i.e., the litigation) to achieve something that the party could not seek as part of that process. *Loeffelholz v. Citizens for Leaders with Ethics & Accountability Now,* 119 Wn. App. 665 (2004).

Here, there are no plausible allegations of an improper act. Plaintiffs allege TICA and Yates-Schiff filed a lawsuit in California after Plaintiffs sent TICA a demand letter. Am. Compl., ¶ 173-178. Merely filing a lawsuit, even if there were a malicious motive and even if the allegations were baseless or vexatious, is not sufficient for a claim for abuse of process. Filing a lawsuit close in time after a demand letter is received cannot be considered coercion or an improper act. Plaintiffs' claim for abuse of process must be dismissed with prejudice.

N. Plaintiffs failed to adequately plead an intentional infliction of emotional distress claim.

Plaintiffs contend claims for intentional infliction of emotional distress with nothing more than conclusory allegations. Am. Compl., ¶¶ 182-195. To prove intentional infliction of emotional distress, a plaintiff must show: (1) extreme and outrageous conduct, (2) intentional or reckless infliction of emotional distress, and (3) the actual result of severe emotional distress to the plaintiff. *Kloepfel v. Bokor*, 149 Wn.2d 192, 195 (2003). "This is a high bar, and the Washington courts are not easily outraged." *Jermy v. Jones*, No. 99-35044, 2000 U.S. App. LEXIS 28094 at *2 (9th Cir. Nov. 9, 2000). A plaintiff must demonstrate outrageous conduct so extreme as to go beyond all possible bounds of decency. *Grimsby v. Samson,* 85 Wn.2d 52, 59 (1975). Mere negligence, insults, indignities, and annoyances do not rise to the level of outrageousness required for

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intentional infliction of emotional distress. *Id.* Trial courts—acting as "gatekeepers"—must "make an initial determination as to whether the conduct may reasonably be regarded as so extreme and outrageous as to warrant a factual determination by the jury." *Repin v. State,* 198 Wn. App. 243, 266 (2017).

Plaintiffs fail completely to allege any extreme and outrageous conduct. Plaintiffs allege that defendants Russo, Yates-Schiff, and Harrison "spread defamatory rumors" that Plaintiffs were "drug addicts, embezzlers, and animal abusers, despite knowing the statements were false." Am. Compl., ¶ 154. Again, Plaintiffs do not provide details about the specific rumors, such as who they were spread to, when, or why. These allegations do not go beyond mere insults, indignities, and annoyances. As described above in Paragraph D, Plaintiff Andres Munt-Lovell has stated under penalty of perjury in public filings with the Superior Court that, at the very least, Plaintiff Nicholas Munt-Lovell does suffer from a substance abuse issue. Thus, the alleged statements could not have been false nor caused harm.

Finally, Plaintiffs merely state they suffered "severe emotional distress" without any elaboration, which does not meet the *Iqbal/Twombly* pleading standard. Plaintiffs have not pled a claim for intentional infliction of emotional harm.

O. Plaintiffs have not plead viable negligent supervision and "ratification" claims.

Plaintiffs allege a claim for negligent supervision and "ratification" against all Defendants. Am. Compl., ¶¶ 151-162. It is unknown what is a claim for "ratification." "The theory of negligent supervision creates a limited duty to control an employee for the protection of third parties, even where the employee is acting outside the scope of employment." *Niece v. Elmview Grp. Home*, 131 Wn.2d 39, 51 (1997). To prevail on a claim of negligent supervision, Plaintiff must show (1) an employee acted outside the scope of her employment, (2) the employee presented a risk of harm to others, (3) the employer knew or should have known in the exercise of reasonable care that the

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employee posed a risk to others, and (4) the employer's failure to supervise the employee was the proximate cause of that plaintiff's harm. *McDaniels v. Group Health Co-op*., 57 F.Supp.3d 1300, 1317 (W.D. Wash. 2014) (citing *Briggs v. Nova Servs*., 135 Wn. App. 955 (2006)). Plaintiffs have failed to plead any element of a claim for negligent supervision. Plaintiffs have not alleged any factual allegations, conclusory or otherwise, regarding any employee. This claim fails.

P. The Complaint should be dismissed with prejudice without leave to amend.

Given the insurmountable procedural and substantive issues plaguing the Amended Complaint, this matter should be dismissed in its entirety with prejudice, without leave to amend. Amendment would be futile, as Plaintiffs have already amended their Complaint. With a 47-page Complaint, Plaintiffs have had ample opportunity to identify and state any facts and causes of action that they could plausibly allege in this matter. Granting Plaintiffs additional time to amend would create undue delay and prejudice to Defendants as Plaintiffs claims – whatever they are – continue to grow more stale with each passing day. *Salameh v. Tarsadia Hotel*, 726 F.3d 1124, 1133 (9th Cir. 2013) ("dismissal without leave to amend is proper if it is clear that the complaint could not be saved by amendment. ... A district court's discretion to deny leave to amend is particularly broad where the plaintiff has previously amended.").

VI. CONCLUSION

For the foregoing reasons, Defendants respectfully requests this Court exercise its discretion and dismiss this action with prejudice and without leave to amend.

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DATED 22nd day of January, 2026.

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I certify that this memorandum contains 6,418 words, in compliance with the local civil rules.

CERTIFICATE OF SERVICE

I, Darren Feider, certify under penalty of perjury under the laws of the State of Washington that, on January 22, 2026, I caused to be served the attached document to the individuals listed below in the manner shown next to their names:

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